

§ 145.8

(iii) Remand the matter to the Assistant Secretary (A) to correct a deficiency in the initial processing of the request, or (B) when an investigation as to which the staff originally claimed exemption from mandatory disclosure on the basis of 5 U.S.C. 555(b)(7)(A) or 7 U.S.C. 12(a) is subsequently closed; or;

(iv) Refer the matter to the Commission for a decision.

(7) If the initial denial of the request for nonpublic records is reversed, the Office of General Counsel shall, in writing, advise the requester that the records will be available on or after a specified date. If, on appeal, the denial of access to a record is affirmed in whole or in part, the person who requested the information shall be notified in writing of (1) the reasons for the denial and (2) the provisions of 5 U.S.C. 552(a)(4) providing for judicial review of a determination to withhold records.

(j) *Expedited processing.* A request may be given expedited processing if the requester demonstrates a compelling need for the requested records. For purposes of this provision, the term “compelling need” means: That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged federal government activity. A requester who seeks expedited processing must demonstrate a compelling need by submitting a statement that is certified by the requester to be true and correct to the best of that person’s knowledge and belief. The Assistant Secretary, or his or her designee, will determine whether to provide expedited processing, and notice of the determination will be provided to the requester, within ten days after the date of the request. If the request for expedited processing is denied, the requester may file an appeal with the Office of General Counsel within ten days of the date of the denial by the Assistant Secretary. The Office of General Counsel will respond to the appeal

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within ten days after the date of the appeal.

[51 FR 26870, July 28, 1986, as amended at 52 FR 19307, May 22, 1987; 62 FR 17069, Apr. 9, 1997; 69 FR 67507, Nov. 18, 2004]

§ 145.8 Fees for records services.

A schedule of fees for record services, including locating, and making records available, and copying, appears in appendix B to this part 145. Copies of the schedule of fees may also be obtained upon request made in person, by telephone or by mail from the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat or at any regional office of the Commission.

(7 U.S.C. 4a(j) and 16a as amended by Pub. L. 97–444, 96 Stat. 2294 (1983), and 5 U.S.C. 552, 552a and 552b)

[41 FR 16290, Apr. 16, 1976, as amended at 49 FR 12684, Mar. 30, 1984]

§ 145.9 Petition for confidential treatment of information submitted to the Commission.

(a) *Purpose.* This section provides a procedure by which persons submitting information in any form to the Commission can request that the information not be disclosed pursuant to a request under the Freedom of Information Act, 5 U.S.C. 552. This section does not affect the Commission’s right, authority, or obligation to disclose information in any other context.

(b) *Scope.* The provisions of this section shall apply only where the Commission has not specified that an alternative procedure be utilized in connection with a particular study, report, investigation, or other matter. See 40.8 for procedures to be utilized in connection with filing information required to be filed pursuant to 17 CFR parts 40 and 41.

(c) *Definitions.* The following definitions apply to this section:

(1) *Submitter.* A “submitter” is any person who submits any information or material to the Commission or who permits any information or material to be submitted to the Commission. For purposes of paragraph (d)(1)(ii) of this section only, “submitter” includes any person whose information has been submitted to a designated contract market, derivatives clearing organization, swap execution facility, swap